

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LANCE I. LANEY and GENERAL SERVICES ADMINISTRATION,  
PUBLIC BUILDINGS SERVICE, Washington, D.C.

*Docket No. 95-2488; Submitted on the Record;  
Issued January 26, 1998*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant's degenerative right foraminal stenosis at C3-4 and C4-5, multilevel degenerative disc disease with spondylosis, and degenerative bulges at C3-4, C4-5 and C5-6 are causally related to his employment injury of July 27, 1981.

Appellant sustained an injury in the performance of duty on July 27, 1981 when his hand got caught in a fan belt pulley. The Office of Workers' Compensation Programs accepted his claim for contusion of the left fingers, amputation of the distal phalanx of the ring finger, comminuted fracture of the middle phalanx of the middle finger with ankylosis, and contusion to the left elbow and shoulder. The Office authorized surgery for carpal tunnel syndrome and neuromas. Appellant received monetary compensation on the periodic roll. He also received a schedule award for a 40 percent permanent impairment of the left upper extremity.

On October 19, 1994 appellant completed a Form CA-2a, notice of recurrence of disability and claim for continuing pay/compensation. He indicated that the recurrence occurred on or about September 13, 1994 but that he had never returned to work. Appellant indicated that he had to seek professional help in addition to his home treatment because the severity of his problems had increased.

To support his claim, appellant submitted an April 30, 1994 report from Dr. Taghi K. Asadi, a Board-certified neurologist. Dr. Asadi reported that the source of appellant's problems seemed to be a degenerative right foraminal stenosis at C3-4 and C4-5, multilevel degenerative disc disease with spondylosis, and degenerative bulges at C3-4, C4-5 and C5-6. He stated:

"A thorough search for the cause of this advanced spondylosis revealed that [appellant] had a job related accident on July 21, [sic] 1981. During this accident he lost part of his left two middle fingers. Review of the old chart related to that showed that he indeed had some cervical spine problems at that time too.

“It is my clinical impression that the advanced degenerative disc disease and spondylosis and foraminal stenosis in the cervical spine are most probably the end result of this accident, and it usually takes this long to develop this extensive spondylosis after the severe trauma to the spine.”

Appellant also submitted a September 20, 1994 report from Dr. Yussef Akbari, a general surgeon. Dr. Akbari reported that he had treated appellant before, during and after his employment injury of July 27, 1981. He stated appellant was doing well until October 1993, when he started to complain of numbness and weakness of his left arm and left leg. Dr. Akbari explained that he had referred appellant to Dr. Asadi. He stated: “After reviewing reports and consultation with Dr. Asadi, I agree that [appellant’s] latest problem is related to his job related injury of July 27, 1981.”

In a decision dated March 25, 1995, the Office denied appellant’s claim on the grounds that evidence failed to demonstrate a causal relationship between the injury and the claimed condition or disability. In the attached memorandum, the Office analyzed the case as one of recurrence and found that the claim should be denied because the evidence failed to demonstrate that the claimed recurrence of disability on or after September 13, 1994 was causally related to the injury.

The Board finds that the medical evidence is insufficient to establish the element of causal relationship.

A claimant seeking benefits under the Federal Employees’ Compensation Act<sup>1</sup> has the burden of proof to establish the essential elements of his claim by the weight of the evidence,<sup>2</sup> including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.<sup>3</sup>

Appellant sustained an injury in the performance of duty on July 27, 1981. The Office accepted that the contusion of his left fingers, amputation of the distal phalanx of his ring finger, comminuted fracture of the middle phalanx of his middle finger with ankylosis, and contusion to his left elbow and shoulder were causally related to this injury. On October 19, 1994 appellant filed a claim and submitted medical evidence to support that his degenerative right foraminal stenosis at C3-4 and C4-5, multilevel degenerative disc disease with spondylosis, and degenerative

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

bulges at C3-4, C4-5 and C5-6 were also causally related to this injury. Appellant therefore has the burden of proof to establish such a causal relationship.<sup>4</sup>

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury, and must explain from a medical perspective how the current condition is related to the injury.<sup>5</sup> The reports of Drs. Asadi and Akbari are insufficient to discharge appellant's burden of proof.

Dr. Asadi noted that a review of the old chart showed that appellant had some cervical spine problems at the time of his July 27, 1981 employment injury. From this, he concluded that the advanced degenerative disc disease and spondylosis and foraminal stenosis now seen in appellant's cervical spine were most probably the end result of this accident. He supported this conclusion by noting that "it usually takes this long to develop this extensive spondylosis after the severe trauma to the spine." Whether appellant sustained a severe trauma to the spine on July 27, 1981, however, is not clear from the record. Dr. Asadi did not provide a sufficiently detailed account of what happened on July 27, 1981 or a sufficient detailed description of appellant's medical findings following the incident to demonstrate that he did in fact sustain such a trauma. Without this factual and medical history, Dr. Asadi's opinion is considered to be based on an unsupported assumption. Further, Dr. Asadi did not explain whether appellant's advanced degenerative disc disease and spondylosis and foraminal stenosis may have developed to its current state independent of the July 27, 1981 incident. That is, he offered no medical reasoning to show that something more than a temporal relationship existed between the events of July 27, 1981 and appellant's currently diagnosed degenerative disc disease, spondylosis and stenosis.

Dr. Akbari also supported the element of causal relationship by reporting that appellant's latest problem was related to his job-related injury of July 27, 1981; however, he offered no medical explanation, apart from the consultation of Dr. Asadi, to show that his opinion was sound, rational and logical.

Although the medical reports that appellant submitted do lend support to his claim, the absence of important factual and medical details and the lack of a convincing medical explanation diminish the probative value of these reports. Consequently, the medical evidence is insufficient to discharge appellant's burden of proof to establish the critical element of causal relationship.

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<sup>4</sup> Appellant's claim is not one of recurrence, wherein an employee who was disabled for work returns to duty for a period of time but must again stop work because of the employment injury. As appellant stated on his claim form, he had never returned to work, and as the medical evidence he submitted makes clear, he simply claims that the conditions diagnosed by Dr. Asadi are causally related to his accepted employment injury.

<sup>5</sup> *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

The March 25, 1995 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
January 26, 1998

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member